IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

RSA No. 188 of 1995

Date of decision 26.7.2007

Keshva Nand Appellant

Versus

State of H.P. Respondent

Coram:

The Hon'ble Mr.Justice Rajiv Sharma, Judge.

Whether approved for reporting?[1] No.

For the Appellant: Mr.Ramakant Sharma, Advocate.

For the Respondents: Mr.M.S.Chandel, Advocate General, with Mr.M.A.Khan and Mrs.Meenakshi Sharma, Dy.A.Gs., for the respondent.

Rajiv Sharma, J.(Oral)

This regular second appeal is directed against the judgment and decree passed by the District Judge, Solan dated 23.2.1995 in Civil AppealNo.32-S/14 of 1993.

The brief facts necessary for the adjudication of second appeal are that ejectment proceedings were initiated against Paras Ram, the predecessor-in-interest of the present appellant for encroaching upon the land measuring 1.6 bighas comprised in Khasra No.38 situate in Mauja Kotla. He was served with a notice to which he filed objections. The Assistant Collector Ist Grade,Kasauli District Solan gave findings against Paras Ram to the effect that he had encroached upon the government

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[1] Whether reporter of local papers are allowed to see the judgment ? No.

land. The ejectment order was passed by the Assistant Collector Ist Grade on 17.8.1993.

Feeling aggrieved by the order passed by the Assistant Collector Ist Grade Paras Ram the predecessor in interest of the present appellant filed an appeal before the District Judge, Solan on 16.9.1993. The District Judge had formulated the following points for determination:-

Point No.1 Whether the impugned judgment and decree warrants Interference?

Point No.2 Final order.

The findings recorded by the learned District Judge on the aforesaid points are as under :

Point No.1 No

Point No.2 Per operative part of the judgment the appeal is dismissed.

The learned District Judge had dismissed the appeal on 23.2.1995. Paras Ram the predecessor in interest of the present appellant filed a regular second appeal in this court and the same was admitted on the following substantial questions of law.

1. Whether the impugned judgment and decree is the result of misreading of the evidence particularly of RW-1 and documentary evidence Ex.PWA/1?

2. Even if it be assumed for the sake of arguments that the respondent had proved the alleged act of encroachment by the appellant over the land in question, whether the same is liable to be regularized in accordance with the policy of the Government in force?

I have heard the learned counsel for the parties and have also gone through the record carefully.

Sh.Paras Ram predecessor-in-interest of the present appellant had died on 8.11.1999 during the pendency of this appeal. The Court had

allowed the present appellant to be brought on record vide order dated 19.7.2000.

Mr.Ramakant Sharma, learned counsel appearing on behalf of the appellant has vehemently argued that the courts below have mis-read Ex.RWA/1 dated 10.11.1973. I have gone through the resolution dated 10.11.1973. As per the resolution the revenue entries were to be carried out in the record of rights. Admittedly no corrections were carried out in the record of rights. The procedure as per the law for grant of land was also not gone into pursuant to the resolution. The appellant had not led any evidence to prove possession over the disputed land by way of adverse possession. Two witnesses, namely, Faquir Chand and Gopal Krishan had not stated anything with regard to the plea of adverse possession taken by the appellant. Moreover it has come in Ex.RWA/1 that there were no revenue entries in favour of the appellant. The findings recorded by both the courts below are concurrent and need not be interfered by this court. There is no misreading of Ex.RWA/1 as argued by Mr.Ramakant. There is no question of law much less any substantial question of law involved in this second appeal.

In view of the foregoing discussion, there is no merit in this appeal and the same is dismissed accordingly.

July 26,2007(g) **(Rajiv Sharma), J.**